

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Lisa Marie Fennah,)
Plaintiff,) C/A No. 5:16-3345-MBS
vs.)
Nancy A. Berryhill, Acting Commissioner)
of Social Security,)
Defendant.)

)

ORDER AND OPINION

Plaintiff Lisa Marie Fennah filed the within action on October 10, 2016, seeking judicial review of a final decision of Defendant Commissioner of Social Security denying social security disability benefits and disabled widow's benefits.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Kaymani D. West for pretrial handling. On November 20, 2017, the Magistrate Judge issued a Report and Recommendation in which she determined that the Administrative Law Judge had failed to adequately analyze why Plaintiff failed to meet Listing 1.04A. Accordingly, the Magistrate Judge recommended the case be remanded to the Commissioner for further consideration. The Magistrate Judge further determined that, on remand, the Commissioner should take into consideration Plaintiff's allegations that the Administrative Law Judge failed to properly evaluate opinion evidence. On December 4, 2017, the Commissioner filed a Notice of Not Filing Objections to the Report and Recommendation of the Magistrate Judge.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo

determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The case is **reversed** pursuant to sentence four of 42 U.S.C. § 405(g) and **remanded** to the Commissioner for further consideration as set forth herein and in the Report and Recommendation.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

December 14, 2017